

In Illinois, if a machine qualifies as a coin-operated amusement device or a redemption machine, its operation does not violate the Criminal Code so long as it is licensed and operated in compliance with the Coin-Operated Amusement Device and Redemption Machine Tax Act. See 35 ILCS 510. (This is a GIL).

February 19, 1999

Dear Mr. Xxxxx:

This letter is in response to your letter dated January 5, 1999. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

I would like to bring you up-to-date on everything that has happened and what I have discovered in the process of getting my game approved.

I realize now, that if I would have just applied for a state redemption game permit, as everyone else has, my game would have been in place by now throughout the state of Illinois. However, in moving forward in getting everything resolved, it's important to me that I have everything properly in place and know that I am doing things right instead of just getting a state redemption permit and operating my game illegally. It's now been 7 months that I've been working on this project and I would like to outline for you what I have discovered and how, with your help, we could eliminate a lot of potential problems.

The current state redemption law not only is outdated, but is starting to cause a number of problems and concerns that could be devastating to a lot of vendors and family fun centers. For example, the current state gaming laws are so unclear as to what games are legal or illegal that in one county you'll have authorities interpreting the law where a game is approved as being legal, while in another county the local authorities will look at the same game as being illegal. A perfect example of this is currently taking place in NAME County. A letter is enclosed where they are questioning a golf game called GAME. Interestingly, this is a ball game that is played by rolling a ball, which totally complies with the state redemption law. However, since this game does not dispense tickets or tokens it's considered a game played for amusement, and since it does not reward a player with a chance to win or be rewarded a free game, the local authorities are questioning if the game is legal.

My game has been reviewed by some local authorities who feel that it complies with the current state redemption law as it now exists. The current law states, in part, that if a game is played by placing or propelling a ball or other object into, upon, or against a hole or other target, is legal providing that all of the conditions in A through E are met. In looking at the law in this manner they have determined that a player who plays my game has to use their hands in placing there selection on an object which is the block style switch upon the machine in order to direct the object they have decided to select. This is true, a redemption machine can be defined as a game that involves placing an object as directed by the player.

In looking at the state law and how it is written, it could be determined, as outlined, that my game, in fact, complies by some local authorities while the next person might determine that my game does not comply. I've even found this to be true with attorneys that believe that the current state law, not only opens the door to self-interpretation, but is unclear and outdated.

To emphasize how easily things can change overnight and be devastating to a lot of innocent people, look at what is currently taking place throughout the state with video poker machines. Since 1985 these games have been issued a license or permit to operate and no one said anything about it. As a result, over \$55,000 worth of these machines were purchased over the years and then overnight, because someone determined that these games did not comply with the current state law and proceeded to make an issue of it, has resulted in a lot of turmoil.

Again, as the news articles enclosed show, there is divided opinion as to whether these machines are legal or not, even with state legislators.

The problem with the states' law could be even more devastating to family fun centers, arcades, bowling alley's, hotels, etc. Based on the current state gaming laws, there are thousands of games now in place throughout the state that do not comply. There is also a growing concern because of what is taking place in NAME County with the GAME and because christian activists groups are opposed and believe that kid's games promote or teach a child that gambling your money to win tickets for prizes is developing the wrong thought pattern in a child. This is creating an open door that could be devastating to thousands of game locations throughout the state.

It's unfortunate that these things are taking place, especially when they could be avoided if someone would step forward and amend the current state law. That is what I intend to do with the help of hundreds of vendors and game locations.

In the last two months we have been in touch with a state lobbyist, PERSON. He understands the potential problems if something isn't done very soon. With his contacts he will be submitting a revised state redemption gaming law that will put an end to any questions that could arise, as to whether a game is legal or not. The current law reads as follows:

A redemption machine. For the purposes of this paragraph (4) A redemption machine is a single-player or multi-player amusement device involving a game, the object of which is throwing, rolling, bowling, shooting, placing, or propelling a ball or other object into, upon, or against a hole or other target, provided that all of the following conditions are met:

(A) The outcome of the game is predominantly determined by the skill of the player.

(B) The award of the prize is based solely upon the player's achieving the object of the game or otherwise upon the player's score.

(C) Only merchandise prizes are awarded.

(D) The average wholesale value of prizes awarded in lieu of tickets or tokens for single play of the device does not exceed the lesser of \$5 or 7 times the cost charged for a single play of the device.

(E) The redemption value of tickets, tokens, and other representations of value, which may be accumulated by players to redeem prizes of greater value, does not exceed the amount charged for a single play of the device.

The new law being submitted would read as follows:

A redemption machine. For the purpose of this paragraph, a redemption game is a single player or multi-player amusement device involving a game or games. The object, of which, is to play a game that involves balls, lights, spinning objects, cards, rolling tokens, stopping an object, knowledge, etc. A redemption game and the nature in how it is played may vary and complies as long as all of the following conditions are met.

(A) The out come of the game is predominantly determined by the skill or knowledge of the player.

(B) The award of the prize is based on the players achieving the object of the game or otherwise upon the players score.

(C) Only merchandise prizes or food are awarded.

(D) The maximum value of the tickets, tokens or a receipt that can ever be received in one play, does not exceed the sum of five dollars (\$5.00).

(E) Each game must display all state and local permits required.

I'm sure you can see how much more defined this new law is and that is focuses on a game being legal, basically as long as it meets the requirements in A through E, as outlined.

In order to get this accomplished, which is to everyone's best interest, I need the support of the hundreds of state vendors and game

locations throughout the state. Without their support my efforts could be in vain. This would only leave the door open for someone to cause a lot of problems.

In moving forward in getting this completed, as soon as possible, it would be of tremendous value to me if I could get your assistance in helping people understand that a game must comply with the current state gaming law in order to receive a permit to operate and that any game that does not comply is subject to being confiscated and potential fines.

To give you an example of what I am looking for I've enclosed a copy of a letter for you to review. Everything in this letter is factual and with these vendors receiving a copy of this it not only protects the state by clearly defining what is legal and accepted and what is illegal and not accepted, but it also makes these vendors aware of the benefit of assisting us in getting the state redemption law amended as soon as possible.

I want you to know that in everything that I have been through I really appreciate all of your help, support and understanding. It means a lot to me.

After you receive this package, I would appreciate it if you would give me a call as soon as possible. Time is of the essence in getting everything completed.

We are unable to give you the letter you requested. The Department may only issue two types of letters, General Information Letters and Private Letter Rulings. The following is general information regarding the topics discussed in your letter.

In Illinois, if a machine qualifies as a coin-operated amusement device or a redemption machine, it is legal so long as it is licensed and operated in compliance with the Coin-Operated Amusement Device and Redemption Machine Tax Act ("the Act"). See 35 ILCS 510. Any such machine that does not constitute a coin-operated amusement device or a redemption machine is a gambling device and its operation is in violation of the Illinois Criminal Code of 1961.

The Act applies to both coin-operated amusement devices and redemption machines. A coin-operated amusement device includes any "...device operated or operable by insertion of coins, tokens, chips or similar objects...which returns to the player thereof no money or property or right to receive money or property..." See 35 ILCS 510/1.

A redemption machine is defined at Section 28-2(a)(4) of the Criminal Code of 1961 as:

"...a single-player or multi-player amusement device involving a game, the object of which is throwing, rolling, bowling, shooting, placing, or propelling a ball or other object into, upon, or against a hole or other target, provided that all of the following conditions are met:

- (A) The outcome of the game is predominantly determined by the skill of the player.
- (B) The award of the prize is based solely upon the player's achieving the object of the game or otherwise upon the player's score.
- (C) Only merchandise prizes are awarded.
- (D) The average wholesale value of prizes awarded in lieu of tickets or tokens for single play of the device does not exceed the lesser of \$5 or 7 times the cost charged for a single play of the device.
- (E) The redemption value of tickets, tokens, and other representations of value, which may be accumulated by players to redeem prizes of greater value, does not exceed the amount charged for a single play of the device." 720 ILCS 5/28-2(a)(4).

As stated above, coin-in-the-slot-operated amusement devices and redemption machines are legal in Illinois when conducted in accordance with the provisions of the Act and all regulations promulgated thereunder. See, 35 ILCS 510/1 et seq. and corresponding regulations at 86 Ill. Adm. Code 460.101 et seq. The Act imposes an annual privilege tax on the privilege of operating such machines.

Persons engaged in the operation of redemption machine games or coin-operated amusement devices are not in the business of selling tangible personal property at retail and do not incur Retailers' Occupation Tax liability on the gross receipts from the operation of those games. However, these games are treated for tax purposes similar to games of chance. See the enclosed copy of 86 Ill. Adm. Code 130.1975. Operators incur Use Tax on the purchase price of the tangible personal property that the operators provide as prizes for the games. Such operators may not provide Certificates of Resale when purchasing the tangible personal property that is to be provided as prizes. If the operators have not paid the Use Tax to Illinois suppliers, they must register and remit the tax to the Department of Revenue.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis  
Associate Counsel